**HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI**

**AND**

**HON'BLE SHRI JUSTICE G.V. SEETHAPATHY**

**Writ Petition No.3125 of 2007**

**Between:**

Guduru Narasimha Rao … Petitioner

**And**

The State of Andhra Pradesh,
Department of Roads & Buildings,
represented by its Principal Secretary,
Hyderabad & others. … Respondents

**:: O R D E R ::**

Counsel for the petitioner : Shri Venkateswarlu Posani

**20th February 2007**

**Per G.S.Singhvi, C.J.**

In this petition filed as a piece of public interest litigation, the petitioner, who claims to be a resident of Rangavari Street, Narsaraopet, Guntur District, has prayed for issue of a mandamus to respondent Nos.1 to 5 to remove the alleged obstruction caused in the flow of water in the canal situated by the side of Palnadu Road.

The aforementioned prayer of the petitioner is founded on the assertion that those running M/s.Vijaya Lakshmi Filling Station (respondent No.6) have laid a cantilever/slab on the canal and extended the area of the petrol bunk, and as a result of that, the width of Palnadu Road has been reduced and the flow of water in the canal running by the side of the road is getting obstructed. Along with the

affidavit filed by him, the petitioner has placed on record copy of representation dated 8-12-2006 submitted to District Collector-cum-District Magistrate, Guntur, and averred that despite repeated requests, the official respondents have failed to take action to remove the encroachment made by the partners of respondent No.6. It is also the petitioner's case that respondent No.6 has established petrol bunk without obtaining 'No Objection Certificate' from Narasaraopet Municipality.

We have heard Sri Venkateswarlu Posani, counsel for the petitioner and perused the record.

The petitioner has not produced any document evidencing the width of Palnadu Road. He has also not placed before the Court copy of the permission granted by the competent authority for construction of the building in question shown in the photograph marked as Ex.P.5, a perusal of which could help the Court in recording the finding whether or not respondent No.6 made construction in violation of the sanctioned plan. Therefore, it is not possible to order a roving enquiry into the allegation of encroachment made by respondent No.6.

The petitioner's assertion that the petrol bunk has been established without obtaining 'No Objection Certificate' from Narsaraopet Municipality has remained unsubstantiated because he is not shown to have made any representation to the competent authority of Naarsaraopet Municipality and other statutory bodies/functionaries to find out whether the petrol bunk has been established at the site in question after obtaining 'No Objection Certificate' etc. A reading of representation dated 8-12-2006 made by the petitioner to District Collector-cum-District Magistrate, Guntur shows that the petrol bunk was established some time in the year 2002 or earlier. The petitioner has not explained as to why he kept silence for a period of more than four years. Therefore, at this belated stage, we do not see any reason to entertain his prayer and order demolition of the construction made by respondent No.6, more so because the issues raised in the writ

petition can appropriately be decided only after giving reasonable opportunity to the parties to lead evidence, and that exercise cannot be effectively undertaken by this Court under Article 226 of the Constitution.

For the reasons stated above, the writ petition is dismissed leaving the petitioner free to avail alternative remedy by filing civil suit.

As a sequel to dismissal of the writ petition, WPMP.No.3989 of 2007 filed by the petitioner for interim relief is also dismissed.

**G.S.SINGHVI, C.J.**

20th February, 2007

**G.V.SEETHAPATHY, J.**

ARS